HIGH COURT OF UTARANCHAL AT NAINITAL

Civil Revision No. 440 of 2001

1. Jai Kishan S/o Late H.S. Gupta
   R/o 12, School Lane, New Delhi.
2. Mahesh Chandra S/o Late H.S. Gupta
   R/o 50, Anand Lok Colony, New Delhi. .....Revisionists

Vs

Union of India through its Director, Lal Bahadur Shastri, national Academy of Administration, Mussorrie. ...Respondents

And

Civil Revision No. 58 of 2001

Union of India through its Director, Lal Bahadur Shastri, National Academy of Administration, Mussorrie. .....Revisionist

Vs

1. Jai Kishan S/o Late H.S. Gupta
   R/o 12, School Lane, New Delhi.
2. Mahesh Chandra S/o Late H.S. Gupta
   R/o 50, Anand Lok Colony, New Delhi. .....Revisionists

Sri Ashok Agrawal learned Standing counsel for the Union of India.
Miss Prabha Nauniyal learned counsel for the respondents.

Dated: 07-04-2006

Hon'ble B.S. Verma, J.

Heard Sri Ashok Agrawal learned counsel for the revisionists and Miss Prabha Nauniyal learned counsel for the respondents.

The Civil Revision No. 440 of 2001 has been filed against the order-dated 30-5-2001 passed by the Additional District Judge- III, Dehradun in Execution Case No. 2/97 Jaikishan Vs. Collector and Union of India restricting the execution proceeding to the extent of Rs. 6,05,058.75 only.

The grounds raised in the revision are that the opposite party failed to comply the order dated 01-05-1996 passed by the High Court in First Appeal No. 325 of 1995. Hence, the entire amount has become recoverable and the court below has acted illegally in restricting the recovery proceeding for realization of Rs. 6,05,058.75.

In Revision No. 58 of 2001 Union of India Vs. Jaikishan and others, Union of India has already challenged the order dated 30-5-2001 passed by the IIIrd Additional District Judge, Dehradun in Execution Case No. 2/97, on the ground that the learned IIIrd Additional District Judge, Dehradun has exercised his jurisdiction illegally and with material irregularity in rejecting the applicant's objection. On 30-5-2001, the bank account of the applicant was also ceased while the appeal is pending before the High Court.

Miss Prabha Nauiyal learned counsel for the respondents has submitted that now the appeal No. 325 of 19985 State of U.P through Collector and others has been decided on 16-7-2005 and the appeal has been partly allowed, the impugned order dated 23-3-95 was set aside to the extent it enhances the compensation of land to Rs. 19,76,256/-. The said award is modified to the extent that the claimants/ respondents shall be entitled to Rs. 13, 17,504/- instead of Rs. 19,17,256/- as compensation of land and regarding the compensation of trees, percentage of solatium and percentage of interest, the impugned judgment/award was upheld. In the change circumstances now both the revisions have become infructuous because both the revisions were filed against the order passed by the IIIrd Additional, District Judge, Dehradun order dated 30-5-2001 by which the learned IIIrd Additional District Judge proceeded that the execution in compliance of the interim order of the Hon'ble High Court passed in appeal No. 325/95, The appeal now has finally been decided by this court. The executing court now may proceed according to the final order passed in appeal No. 325/-95.

Both the revisions are hereby dismissed being infructuous. The revision is dismissed as infructuous.

(B.S. Verma, J.)

Dated:-7-4-2006

M.K.